

REMARKS

This Amendment is filed to supplement the Amendment filed on November 20, 2009, and in further response to the Office Action dated November 20, 2008.

Concurrent with this Amendment, the applicant is filing a Declaration of Charles W. von Rosenberg, Jr., pursuant to Rule 1.132. Dr. von Rosenberg has considerable experience and expertise in the area of fluorescence-based diagnostic systems, and his Declaration further supports the applicant's position that claims 1 and 7 of the present application are fully supported by the application as filed. Accordingly, it is submitted that the rejections of claims 1-11 and 21-26 under 35 U.S.C. 112, first paragraph, are overcome.

New claims 37-49 have been added to alternatively characterize the invention. Support for these claims can be found in the specification at, for example, page 4, lines 10-11 and 15-18; page 8, line 28 through page 9, line 1; page 10 line 14 through page 11, line 15; page 15, lines 5-15; and in Figs. 1, 5, 9C and 11a-11d. The withdrawn claims have been cancelled without prejudice to the filing of continuation and/or divisional application.

With respect to the outstanding claim rejections, the applicant incorporates and reasserts the arguments made in the Amendment filed on November 20, 2009. It is believed that all rejections are overcome, and that the present claims are allowable.

Applicant respectfully requests reconsideration hereof. The Examiner is encouraged to telephone the undersigned attorney to discuss any matter that would expedite allowance of the present application.

Respectfully submitted,

STEPHEN F. FULGHUM

Date: 23 December 2009

By: Thomas O. Hoover  
Thomas O. Hoover  
Registration No. 32,470  
Attorney for Applicant(s)  
WEINGARTEN, SCHURGIN,  
GAGNEBIN & LEBOVICI LLP  
Ten Post Office Square  
Boston, MA 02109  
Telephone: (617) 542-2290  
Telecopier: (617) 451-0313

TOH/trb

387629.1